



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,005	01/12/2006	James D. San Antonio	08321-0125US1	1451

23973 7590 09/21/2006

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

EXAMINER

AUDET, MAURY A

ART UNIT	PAPER NUMBER
----------	--------------

1654

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/551,005

Applicant(s)

SAN ANTONIO ET AL.

Examiner

Maury Audet

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) 2-17, 22-24, 27-29, 31-34, 36, 37, 42, 43, 45-60, 64 and 65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1, 18-21, 25, 26, 30, 35, 38-41, 44 and 61-63 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 09/05, 11/05, 07/06.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION***Election/Restrictions***

Applicant's election with traverse of Group I, claims 1-30 and 35-44, as drawn to SEQ ID NO: 5, in the reply filed on 07/10/2006 is acknowledged. The traversal is on the ground(s) that lack of unity is not present, and all the distinct peptides and groups containing such, should be examined collectively. This is not found persuasive because classifying independent and distinct peptides as "heparin binding peptides" does not create a "special" technical feature by virtue of lexicography and/or nomenclature and/or function. Each of these independent and distinct structural peptides merely constitutes a "technical feature" of the invention, not a "special" technical feature. As discussed in the restriction requirement, since each peptide is an independent and distinct compound, and the inventions (groups) are drawn to any one or more thereof, no single peptide constitutes the "special" technical feature which runs through the respective groups, the litmus test by which unity is judged (absent evidence to the contrary, that a search of any one of these peptides, and any art reading thereon, renders obvious any of the other peptides, e.g. "technical features" of the invention). Put another way, any one of the peptides alone constitute a "technical feature" which may be used alone in any of the groups, none of which are *required absolute*, by all of the respective groups. Thus, the groups lack unity.

The Examiner found that SEQ ID NOS: 1, 8, and 37 are longer peptides which also comprise the core SEQ ID NO: 5. Thus, the latter three sequences have been rejoined herein, and the claims are examined as drawn to a heparin-binding peptide comprising any of SEQ ID NOS: 1, 5, 8, and 37. Additionally, claims 61-63, drawn to a conjugate of elected SEQ ID NO: 5 to a carrier molecule has been rejoined. Thus, claims 1, 18-21, 25-26, 30, 35, 38-41, 44, and 61-

Art Unit: 1654

63 are examined on the merits, as drawn to the elected compound of SEQ ID NO: 5, and rejoined SEQ ID NOS: 1, 8, and 37. Claims 2-17, 22-24, 27-29, 31-34, 36-37, 42-43, 45-60, and 64-65 are withdrawn as being drawn to non-elected subject matter.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

Claims 1, 18-21, 25-26, 30, 35, 38-41, 44, and 61-63 are objected to because of the following informalities: the claims are drawn to non-elected inventions. In response to the present Office Action, Applicant is asked to amend the claims to be drawn to the elected invention (e.g. 1, 3-5, and 11-14.

Appropriate correction is required.

Allowable Subject Matter

Claims 1, 18-21, 25-26, 30, 35, 38-41, 44, and 61-63, as drawn to a heparin-binding peptide comprising SEQ ID NO: 1, 5, 8, and 37, or a composition thereof or a carrier conjugate thereof, are not reasonably taught or suggested by the prior art of record. Were the claims amended commensurate in scope thereto, the claims would be in condition for allowance.

Art Unit: 1654

Conclusion

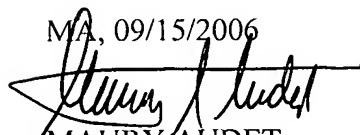
No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maury Audet whose telephone number is 571-272-0960. The examiner can normally be reached on M-Th. 7AM-5:30PM (10 Hrs.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecelia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA, 09/15/2006


MAURY AUDET
PATENT EXAMINER
ART UNIT 1654